Indian and Northern Affairs Canada
Affaires indiennes et du Nord Canada

Annual Report to Parliament

Privacy Act

2008 - 2009

Canada

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Rapport annuel au Loi sur la protection des renseignements personnels 2008-2009

REPORT ON THE PRIVACY ACT

INTRODUCTION

The purpose of the *Privacy Act* (PA), proclaimed in July 1983, along with its companion legislation, the *Access to Information Act*, is "*to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information*" (section 2).

OVERVIEW

The principles underlying this legislation are:

- government information should be available to the public;
- necessary exceptions to the right of access should be limited and specific;
- the *PA* is not meant to replace existing means of providing information;
- decisions on the disclosure of government information should be reviewed independently of government; and,
- apart from for a few specific exceptions, personal information cannot be disclosed without the consent of the individual to whom the information pertains.

This Annual Report to Parliament is for the 2008-2009 fiscal year, as required under subsections 72(2) Privacy Act.

INDIAN AND NORTHERN AFFAIRS AND THE ACCESS TO INFORMATION AND PRIVACY DIRECTORATE – ADMINISTRATION

The Access to Information and Privacy (ATIP) Directorate reports to the Corporate Secretary who is directly accountable to the Deputy Head and is a member of the Department's Executive Committee. The Directorate is essentially comprised of two groups, Access and Privacy.

A priority for Indian and Northern Affairs Canada (INAC) is strengthening its accountability with respect to privacy and the management of its personal information holdings.

To this effect, INAC created a Privacy Policy Division under the Access to Information and Privacy Directorate. The main purpose of the Privacy Policy Division is to ensure that INAC is in a position to meet its obligations under the *Privacy Act* and to assist in building privacy into its program management activities, as necessary.
Increased emphasis is being placed on the Department's ability to be accountable for and to report on the personal information it holds.

The Department recognizes the importance of managing personal information and is undertaking various initiations to improve upon our existing privacy practices. These improvements will be reported on in our next Annual Report.

Indian Residential Schools Resolution of Canada (IRSRC) was integrated with the Department in June 2008. A separate Annual Report to Parliament was provided by IRSRC for the fiscal year 2007-2008. For the fiscal year 2008-2009, all information and figures, regarding the former IRSRC, have been fully integrated into INAC's ATIP Annual Report.

DEPARTMENTAL MANDATE

Indian and Northern Affairs Canada (INAC) is responsible for two separate yet equally important mandates: **Indian and Inuit Affairs** and **Northern Development**. This broad mandate is derived largely from the *Department of Indian Affairs and Northern Development Act*, the *Indian Act*, territorial acts and legal obligations arising from section 91(24) of the *Constitution Act*. The Department is responsible for administering more than 50 statutes in total. Consequently, INAC's mandate is complex and its responsibilities encompass a broad spectrum of programs.

The Department is responsible for meeting the Government of Canada's obligations and commitments to First Nations, Inuit and Métis and for fulfilling the federal government's constitutional responsibilities in the North. The Minister of Indian Affairs and Northern Development is also the Federal Interlocutor for Métis and Non-Status Indians.

The Federal Interlocutor's role is to provide a point of contact between the Government of Canada and Métis, Non-Status Indians and urban Aboriginal peoples.

DELEGATED AUTHORITIES

Under section 73 of the Privacy Act, the Minister's authority is delegated to enable the Department to meet its legislated requirements as well as to exercise its powers. Responsibility for all sections of the Acts has been delegated to the Corporate Secretary and to the Departmental Access to Information and Privacy Coordinator (Director) within the Corporate Secretariat. Certain staff are also delegated to carry out specific administrative functions. The Department's Delegation Orders for the Privacy Act can be found at Appendix A.

EDUCATION AND TRAINING

During the last fiscal year, the promotion and delivery of information sessions focussed more at headquarters than at a regional level, involving 20 sessions. Extensive regional training was conducted in 2007-2008 and will again be conducted in 2009-2010.

The objective of these information sessions was to educate employees with regard to the ATIP process and their responsibilities in support of the department's compliance with both the ATI and Privacy Acts. These sessions have proven to be very effective in building up good relationships between the ATIP office and the various sectors of the department and thus are considered a valuable investment.

ATIP sessions are also now being offered as part of regular training programs to staff via the Human Resources' training calendar. Discussions were also initiated to have ATIP training become mandatory for all employees of the department.

Ultimately, staff training will improve our capacity to meet our legislative obligations including the "duty to assist" requesters.

INFORMATION HOLDINGS

A description of the classes of institutional records held by the department can be found in the following Info Source publications for 2008-2009: *Sources of Federal Government Information and Sources of Federal Employee Information*.

Info Source can be accessed through public and academic libraries and constituency offices of federal members of Parliament as well as on the Internet at http://www.infosource.gc.ca.

READING ROOM

A reading room is available for individuals wanting to review departmental records publications, and other materials. The room is situated in the departmental library and individuals can contact library personnel for use of the facility.

The departmental library is located at:

10 Wellington Street
Gatineau, Québec
K1A 0H4
Telephone: 819-997-8205
Fax: 819-953-5491

PRIVACY IMPACT ASSESSMENTS (PIA)

A PIA is a step-by-step evaluation of the flow of personal information held within a given program or service. This process enables the Department to determine whether new technologies, information systems, initiatives, and proposed programs or policies meet federal government privacy requirements.

The Privacy Policy division of the Access to Information and Privacy (ATIP) unit has been instrumental in making the Privacy Impact Assessments (PIA) process a focal point for privacy activities at Indian and Northern Affairs Canada (INAC). By providing advice and guidance, including written and verbal training, the Privacy Policy Division has enabled all INAC program offices to incorporate privacy into their fundamental program planning.

A PIA outlines salient points about new or existing personal information, including hard copy format or through technology systems, by answering questions about the information that will be collected, who will be able to access the information, how the information and data will be maintained, what administrative controls will be in place, and how the decision to use the information was made. From the initiation of a PIA to the final product, the Privacy Policy division has provided PIA direction to program offices and their components.

The Privacy Policy division has provided critical privacy advice to new initiatives, resulting in changes that will improve privacy protection in departmental programs. Procedures are being established to ensure that privacy is considered throughout the life cycle of INAC's processes and programs and that fair information principle inform policy decisions concerning data collection and use.

In the past fiscal year, INAC completed three (3) PIAs:

Treaty Payment System (TPS): (Privacy Impact Assessment forwarded to the Office of the Privacy Commissioner)

Treaty Payment System (TPS) PIA is a system that tracks, and logs treaty payments to First Nations. In order to manage data resulting from the fulfillment of Canada's treaty payment obligations, the Treaty Payment System (TPS) was deployed under the authority of Lands and Trust Services Sector in 1995. The treaty payment process is a unique blend of treaty obligation and tradition, which shapes the practice and procedure of treaty payment. The Treaty Payment System (TPS) has been re-developed by INAC in May 2005 and is fully supported by Indian and Northern Affairs Canada. The new TPS application is a web-enabled system that will completely replace the current TPS, including functionality and data. The new system will be accessible via the Internet through Indian and Northern Affairs Canada secured Intranet.

The TPS will maintain personal information collected by INAC. INAC has initiated a Privacy Impact Assessment (PIA) to investigate the privacy implications of the TPS and to ensure that privacy issues are identified at the early stages of the project development cycle and appropriately addressed in future phases of the project.

Real Time Identification System (RTID): (Privacy Impact Assessment forwarded to the Office of the Privacy Commissioner)

RTID is the proposed solution to address challenges in the current fingerprint identification and criminal record system by re-engineering and automating current processes. Transforming the current paper-based infrastructure into a seamless paperless electronic system will allow INAC to do work in only hours and days that now takes weeks and months. The electronic processes planned for RTID are primarily a re-engineering of existing services, meaning that the information received from clients will change only slightly.

Executive Appointment System (EAS): (Privacy Impact Assessment forwarded to the Office of the Privacy Commissioner)

The proposed Executive Appointment System (EAS) will enable users to create and manage Ministerial appointments and contracts. Oracle will be implemented as the backbone, thus enabling immediate on-site IT support when required. The system will also provide reports and allow users to maintain reference tables such as sectors and organizations (boards, commissions, claims, etc...). New security features promote administrators to have tighter controls over usernames and passwords – limiting access on a need-to-know basis.

The following hyperlinks are provided to access departmental Privacy Impact Assessments:

Treaty Payment System (TPS):
http://www.ainc-inac.gc.ca/ai/arp/ati/pia/tps-eng.asp

Real Time Identification System (RTID):
http://www.ainc-inac.gc.ca/ai/arp/ati/pia/rtid-eng.asp

Executive Appointment System (EAS):
http://www.ainc-inac.gc.ca/ai/arp/ati/pia/eas-eng.asp

DATA MATCHING

Data Matching is an activity involving the comparison of personal information from different sources, including sources within the same government institution, for administrative or non-administrative purposes. The data-matching activity that is established can be systematic or recurring. The data-matching activity can also be conducted on a periodic basis when deemed necessary. Under this policy, data matching includes the disclosure or sharing of personal information with another organization for data-matching purposes.

Indian and Northern Affairs Canada is pleased to report that there were no data matching activities undertaken in 2008-2009.

REQUESTS UNDER THE PRIVACY ACT

Between April 1, 2008 and March 31, 2009, the Department received one hundred and eighty (180) requests for information under the *Privacy Act*. In addition, one hundred and fifty-one (151) requests were carried over from the previous fiscal year, for a total of three hundred and thirty-one (331) requests. During the reporting period, three hundred and twenty-four (324) requests were processed and seven (7) active files will be carried over to the next reporting period. The annual statistical report on the operation of the *Privacy Act* can be found on page 20 and 21.

Please note that in June 2008, the Department known as Indian Residential Schools Resolution of Canada (IRSRC) was amalgamated with INAC thus resulting in an increase of approximately 300 requests above the previous years.

DISPOSITION OF COMPLETED REQUESTS

The distribution of completed requests is as follows:

• All Disclosed	8
• Disclosed in Part	244
• Nothing Disclosed (Excluded)	0
• Nothing Disclosed (Exempt)	0
• Unable to process	59
• Abandoned by the Applicant	13
• Transferred	0
TOTAL	**324**

DISCLOSURE OF PERSONAL INFORMATION

Personal information under the control of a government institution **shall not,** without the consent of the individual to whom it relates, be disclosed by the institution except in accordance with subsection 8(1) of the *Privacy Act.*

Beyond the formal three hundred and twenty-four (324) requests received under the *Privacy Act*, as indicated above, there are permissible disclosures of personal information under subsection 8(2) of the *Privacy Act* which may be disclosed without the consent of the individual to whom the information pertains (see Figure 3). These disclosures constitute four hundred and eighty-six (486) requests and their breakdown is identified in the following paragraphs.

Paragraph 8(2)(b)

Personal information may be disclosed "*for any purpose in accordance with any Act of Parliament or any regulation made thereunder that authorizes its disclosure.*"

Under this paragraph of tne *Privacy Act*, one (1) request was received and treated.

Paragraph 8(2)(d)

Personal information may be disclosed "*to the Attorney General of Canada for use in legal proceedings involving the Crown in right of Canada or the Government of Canada.*"

Under this paragraph of the *Privacy Act*, forty-nine (49) requests were received and treated.

Paragraph 8(2)(e)

Personal information may be disclosed "*to an investigative body* [...] *for the purpose of enforcing any law of Canada or a province or carrying out a lawful investigation...*"

Under this paragraph of the *Privacy Act*, one hundred and seventy-eight (178) requests were received and treated.

Paragraph 8(2)(f)

Personal information may be disclosed "*under an agreement or arrangement between the Government of Canada* [...] *and the government of a province [or territory]* [...] *for the purpose of administering or enforcing any law or carrying out a lawful investigation.*"

Under this paragraph of the *Privacy Act*, two hundred and twenty-seven (227) requests were received and treated.

Paragraph 8(2)(j)

Personal information may be disclosed "*to any person or body for research or statistical purposes if the head of the government is satisfied that the purpose for which the information is disclosed cannot reasonably be accomplished unless the information is provided in a form that would identify the individual to whom it relates and obtains from the person or body a written undertaking that no subsequent disclosure of the information will be made in a form that could reasonably be expected to identify the individual to whom it relates.*"

Under this paragraph of the *Privacy Act*, two (2) requests were received and treated.

Paragraph 8(2)(k)

Personal information may be disclosed "*to any association of aboriginal peoples, Indian band, government institution or part thereof, or to any person acting on behalf of such association, band, institution or part thereof, for the purpose of researching or validating the claims, disputes or grievances of any of the aboriginal peoples of Canada.*"

Under this paragraph of the *Privacy Act*, twenty-nine (29) requests were received and treated.

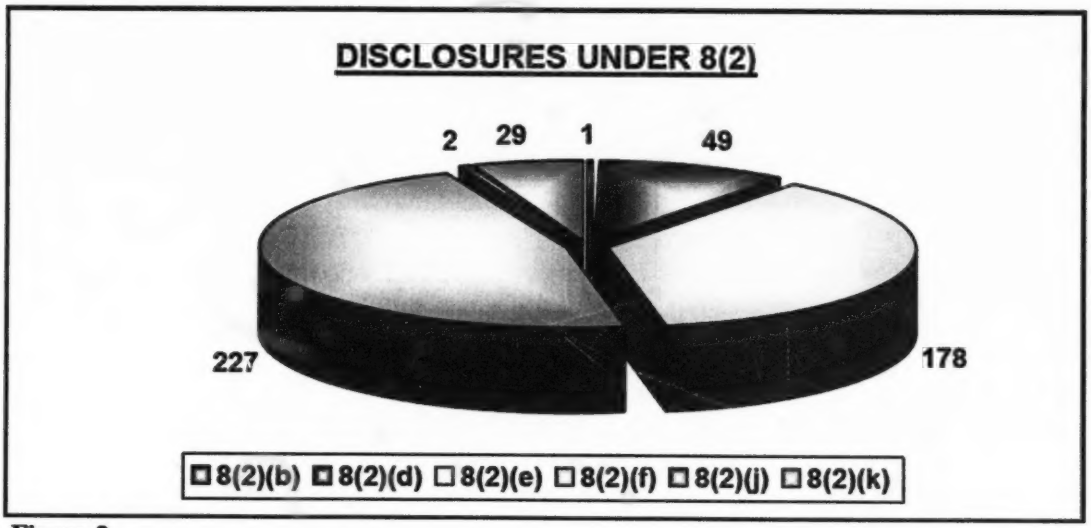

Figure 3

COMPLAINTS AND INVESTIGATIONS

During fiscal year 2008-2009, no complaints against the Department were filed with the Office of the Privacy Commissioner of Canada, in relation to the processing of requests under the Act.

Government of Canada / Gouvernement du Canada

REPORT ON THE PRIVACY ACT
RAPPORT CONCERNANT LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

Institution	Reporting period / Période visée par le rapport
Indian and Northern Affairs Canada / Affaires indiennes et du Nord Canada	04/01/2008 to / à 03/31/2009

I Requests under the Privacy Act / Demandes en vertu de la Loi sur la protection des renseignements personnels

Received during reporting period / Reçues pendant la période visée par le rapport	180
Outstanding from previous period / En suspens depuis la période antérieure	151
TOTAL	331
Completed during reporting period / Traitées pendant la période visées par le rapport	324
Carried forward / Reportées	7

II Disposition of request completed / Disposition à l'égard des demandes traitées

1.	All disclosed / Communication totale	8
2.	Disclosed in part / Communication partielle	244
3.	Nothing disclosed (excluded) / Aucune communication (exclusion)	0
4.	Nothing disclosed (exempt) / Aucune communication (exemption)	0
5.	Unable to process / Traitement impossible	59
6.	Abandonned by applicant / Abandon de la demande	13
7.	Transferred / Transmission	0
TOTAL		324

III Exemptions invoked / Exceptions invoquées

S. Art. 18(2)	0
S. Art. 19(1)(a)	1
(b)	0
(c)	1
(d)	0
S. Art. 20	0
S. Art. 21	0
S. Art. 22(1)(a)	0
(b)	0
(c)	0
S. Art. 22(2)	0
S. Art. 23 (a)	0
(b)	0
S. Art. 24	0
S. Art. 25	0
S. Art. 26	91
S. Art. 27	2
S. Art. 28	0

IV Exclusions cited / Exclusions citées

S. Art. 69(1)(a)	0
(b)	0
S. Art. 70(1)(a)	0
(b)	0
(c)	0
(d)	0
(e)	0
(f)	0

V Completion time / Délai de traitement

30 days or under / 30 jours ou moins	118
31 to 60 days / De 31 à 60 jours	57
61 to 120 days / De 61 à 120 jours	68
121 days or over / 121 jours ou plus	81

VI Extentions / Prorogations des délais

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Interference with operations / Interruption des opérations	6	0
Consultation	1	0
Translation / Traduction	1	0
TOTAL	8	0

VII Translations / Traductions

Translations requested / Traductions demandées		0
Translations prepared / Traductions préparées	English to French / De l'anglais au français	0
	French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation

Copies given / Copies de l'original	251
Examination / Examen de l'original	0
Copies and examination / Copies et examen	1

IX Corrections and notation / Corrections et mention

Corrections requested / Corrections demandées	0
Corrections made / Corrections effectuées	0
Notation attached / Mention annexée	0

X Costs / Coûts

Financial (all reasons) / Financiers (raisons)		
Salary / Traitement	$	150,000
Administration (O and M) / Administration (fonctionnement et	$	15,000
TOTAL	$	165,000

Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	3

Supplemental Reporting Requirements for 2008-2009

Privacy Act

Exigences en matière d'établissement de rapports pour 2008-2009 Loi sur la protection des renseignements personnels

Treasury Board Secretariat is monitoring compliance with the Privacy Impact Assessment (PIA) Policy (which came into effect on May 2, 2002) through a variety of means. Institutions are therefore required to report the following information for the 2008-2009 reporting period.

Indicate the number of:

Preliminary Privacy Impact Assessments initiated: ____3____

Preliminary Privacy Impact Assessments completed: ___4___

Privacy Impact Assessments initiated:____7____

Privacy Impact Assessments completed:____3_____

Privacy Impact Assessments forwarded to the Office of the Privacy Commissioner (OPC): ____7_____

If your institution did not undertake any of the activities noted above during the reporting period, this must be stated explicitly.

Le Secrétariat du Conseil du Trésor surveille la conformité à la Politique sur l'Évaluation des facteurs relatifs à la vie privée (EFVP) (qui est entrée en vigueur le 2 mai 2002) par divers moyens. Les institutions sont donc tenues de déclarer les renseignements suivants pour la période de déclaration 2008-2009.

Prière d'indiquer le nombre :

d'évaluations préliminaires des facteurs relatifs à la vie privée amorcées : _3__

d'évaluations préliminaires des facteurs relatifs à la vie privée achevées : __4___

d'évaluations des facteurs relatifs à la vie privée amorcées :____7___

d'évaluations des facteurs relatifs à la vie privée achevées :_____3____

d'évaluations des facteurs relatifs à la vie privée acheminées au Commissariat à la protection de la vie privée (CPVP) :_____7_____

Si votre institution n'a pas entrepris l'une ou l'autre des activités susmentionnées durant la période de rapport, cela doit être mentionné de façon explicite.

Appendix A

Ministre des Affaires indiennes et du Nord canadien et interlocuteur fédéral auprès des Métis et des Indiens non inscrits

Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

Loi sur la protection des renseignements personnels - Ordonnance de délégation de pouvoirs

En application des pouvoirs de désignation qui me sont conférés en vertu de l'article 73 de la *Loi sur la protection des renseignements personnels*, j'autorise par la présente les employés exerçant des fonctions ou occupant le poste de secrétaire du Ministère, Secrétariat du Ministère (numéro de poste 12294), le coordonnateur / gestionnaire (numéro de poste 62185) de l'Accès à l'information et de la protection des renseignements personnels et les employés qui leur succéderont, y compris les employés qui les remplacent en leur absence, ou toute personne ou agent désigné par écrit pour les remplacer à exercer ces pouvoirs, responsabilités ou fonctions dévolus au ministre en tant que chef de cette institution administrative en vertu de la Loi, et tels qu'énoncés dans l'annexe A ci-jointe.

J'autorise par la présente les conseillers principaux de l'Accès à l'information et de la protection des renseignements personnels (numéros de postes 62364, 12590, 12091 et 12058), ainsi que ceux qui leur succéderont, y compris, en leur absence, toute personne ou agent désigné par écrit pour agir en son nom, à exercer les pouvoirs, les responsabilités ou les

Privacy Act – Delegation Order

Pursuant to the powers of designation conferred upon me by Section 73 of the *Privacy Act*, the persons exercising the functions or positions of Corporate Secretary, Corporate Secretariat (position number 12294), and the departmental Access to Information and Privacy Coordinator / Manager (position number 62185) and their respective successors, including in their absence, a person or officer designated in writing to act in the place of the holder of any such functions or positions are hereby designated to exercise those powers, duties or functions of the Minister as the Head of the government institution under the Act, and as set out in the attached Schedule A.

The departmental Access to Information and Privacy Senior Advisors (position numbers 62364, 12590, 12091 and 12058) and their respective successors, including in her/his absence, a person or officer designated in writing as being authorized to act in the place of the holder of any such function or position, are hereby designated to exercise those

fonctions dévolus au ministre en tant que chef de cette institution administrative du gouvernement en vertu de la *Loi*, et tel qu'énoncés dans l'annexe B ci-jointe.

duties or functions of the Minister as the Head of the government institution under the Act, and as set out in the attached Schedule B.

Ministre des Affaires indiennes et du Nord canadien
Minister of Indian Affairs and Northern Development

Signé à Gatineau, le 26 mai, 2008
Dated at Gatineau, the 26 of May, 2008

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
SCHEDULE TO DELEGATION ORDER

DESIGNATION PURSUANT TO SECTION 73 OF THE PRIVACY ACT

Sections and Powers, Duties or Functions

8(2) Disclose personal information without the consent of the individual to whom it relates

8(4) Keep copies of requests made under 8(2)(e), keep records of information disclosed pursuant to such requests and to make those records available to Privacy Commissioner

8(5) Notify the Privacy Commissioner in writing of disclosure under paragraph 8(2)(m)

9(1) Retain a record of use of personal information

9(4) Notify the Privacy Commissioner of consistent use of personal information and update index accordingly

10 Include personal information in personal information banks

11(a) Publish annually an index of all personal information banks and their respective contents

11(b) Publish annually an index of all personal information held by the institution which is not part of a bank

14 Respond to request for access, within statutory deadline; give access or give notice

15 Extend time limit and notify applicant

16 Where access is refused

17(2)(b) Language of access or alternative format of access

17(3)(b) Access to personal information in alternative format

18(2) May refuse to disclose information contained in an exempt bank

19(1)	Shall refuse to disclose information obtained in confidence from another government
19(2)	May disclose any information referred to in 19(1) if the other government consents to the disclosure or makes the information public
20	May refuse to disclose information injurious to federal-provincial affairs
21	May refuse to disclose information injurious to international affairs and/or defence
22	May refuse to disclose information injurious to law enforcement and investigation
23	May refuse to disclose information injurious to security clearances
24	May refuse to disclose information collected by the Canadian Penitentiary Service, the National Parole Service or the National Parole Board
25	May refuse to disclose information injurious to which could threaten the safety of individuals
26	May refuse to disclose information about other individuals, and shall refuse to disclose such information where disclosure is prohibited under section 8
27	May refuse to disclose information subject to solicitor-client privilege
28	May refuse to disclose information relating to an individual's physical or mental health where disclosure is contrary to the best interests of the individual
31	Receive notice of investigation by the Privacy Commissioner
33(2)	Make representations to the Privacy Commissioner during an investigation
35(1)	Receive the Privacy Commissioner's report of findings of the investigation and give notice of action taken
35(4)	Give complainant access to information after 35(1)(b) notice
36(3)	Receive Privacy Commissioner's report of findings of investigation of exempt
37(3)	Receive report of Privacy Commissioner's findings after compliance investigation where the institution has not complied with sections 4 to 8

51(2)(b) Request that matter be heard and determined in National Capital Region

51(3) Request and be given right to make representations in Section 51 hearing

72(1) Prepare Annual Report to Parliament

77 Carry out responsibilities conferred on the head of the institution by the regulations made under section 77 which are not included above

APPENDIX A

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
SCHEDULE TO DELEGATION ORDER

DESIGNATION PURSUANT TO SECTION 73 OF THE PRIVACY ACT

Sections and Powers, Duties or Functions

10	Include personal information in personal information banks
11(a)	Publish annually an index of all personal information banks and their respective contents
11(b)	Publish annually an index of all personal information held by the institution which is not part of a bank
15	Extend time limit and notify applicant
31	Receive notice of investigation by the Privacy Commissioner